IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Bail Appl..No. 7363 of 2007()

CRIME NO.745/07 OF THE KOTTARAKKARA POLICE STATION

: PETITIONER/ACCUSED NO.1

RADHAKRISHNAN
S/O.VIDHYADHARAN, YESODHA MANDIRAM, THEKKUMPURAM
PUTHOOR P.O., KOTTARAKKARA, KOLLAM.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY
SUB INSPECTOR OF POLICE
KOTTARAKKARA POLICE STATION
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7363 of 2007

Dated this the 7th day of December, 2007

ORDER

Application for anticipatory bail. Petitioner is the 1st accused. Altogether there are 5 accused. The incident took place on 09.10.07 at 11 a.m. The F.I statement was lodged at the hospital on 10.10.07. The petitioner is named in the F.I.R. The wound certificate reveals that the victim had suffered injuries. On account of prior animosity, the accused persons had allegedly trespassed into the house of the defacto complainant and indulged in acts of violence and mischief. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The allegations have been raised vexatiously against him.

3. The learned Public Prosecutor opposes the application. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I am unable to find any features in this case that would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-